

## REMARKS / DISCUSSION OF ISSUES

Claims 1-13 are presented for further consideration. Claims 1 and 9 are the independent claims.

### Objection to the Drawings

The Examiner objects to the drawings stating that ‘reference numbers should have labels for ease of viewing.’ It is entirely unclear what this means; reference numbers are do not require labels. Applicants respectfully submit that the drawings are compliant with the Rules and no amendments are needed. Withdrawal of this objection is earnestly solicited.

### Objection to the Claims

The objection to claim 7 is moot in view of the amendment thereto.

### Rejections under 35 U.S.C. § 112, ¶ 1

The Office Action rejects claim 10 under 35 U.S.C. § 112, ¶ 1 for allegedly failing to comply with the written description requirement. Applicants respectfully submit that the rejection is improper and should be withdrawn.

Claims 10 recites:

*A method as claimed in claim 1, further comprising a computer program executable on a computer readable medium for carrying out all of the method.*

The rejection focuses on the ‘computer readable medium.’

the written description requirement of § 112 requires the application to “convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of *the invention*.” *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64 (Fed. Cir. 1991); *see also In re Wright*, 866 F.2d 422, 424 (Fed. Cir. 1989) (“When the scope of a claim has been changed by amendment in such a way as to justify an assertion that it is directed to a *different invention* than was the original claim, it is

proper to inquire whether the newly claimed subject matter was *described* in the patent application when filed as the invention of the applicant. That is the essence of the so-called 'description requirement' of § 112, first paragraph. . . ."). The claimed subject matter need not be described "*in haec verba*" in the original specification in order to satisfy the written description requirement. *In re Wright*, 866 F.2d at 425. Rather, "*the test . . . is whether a person of ordinary skill in the art would recognize that the applicant possessed what is claimed* in the later filed application as of the filing date of the earlier filed application." *Noelle v. Lederman*, 355 F.3d 1343, 1348 (Fed. Cir. 2004). The same standards govern whether new matter has been added to the specification. *See TurboCare*, 264 F.3d at 1118. (Emphasis provided.)

Applicants respectfully submit that the filed application provides clear basis for the claims, so that one skilled in the art would recognize that Applicants were in possession of the computer readable medium. For instance, claim 10 as filed included: "...program code means for carrying out all steps of a method..." The filed application of the filed application discloses at page 6, lines 9-19:

**A speech recognition system in accordance with the invention preferably is implemented to a high degree on a computer or in a speech control of an apparatus by means of suitable software.** For example, the speech recognition device and the dialog control device can be realized completely in the form of software modules. A device for generating the appropriate prompts, for example, a so-called TTS converter (text-to-speech converter) can also be realized by means of suitable software. It is alternatively possible to use a prompt player which reproduces given, previously recorded prompts for the user. It is necessary, of course, that the system comprises facilities for speech input and speech output; such facilities are to be realized in the form of hardware, for example, a microphone and a loudspeaker or an interface for connection to a communication network via which the speech recognition system can be accessed by way of a terminal.

Thus, program code and the hardware, or software, or both, are described. As such, the computer readable medium can be implemented in software, hardware or both. Thus, Applicants respectfully submit that the filed application provides support for claim 10, and in sufficient detail so that one having ordinary skill in the art would appreciate *that*

*applicant possessed what is claimed.* For at least the reasons set forth above, Applicants respectfully submit that the rejection is improper and should be withdrawn.

### **Rejections under 35 U.S.C. § 102**

Claim 1 is rejected under 35 U.S.C. § 102(b) as being unpatentable over *Politakis, et al.* (US Patent 6,336,091). For at least the reasons set forth below, Applicants respectfully submit that this rejection is improper and should be withdrawn.

At the outset Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Claim 1 is drawn to a method for operating a speech recognition system. The method comprises:

- detecting a speech signal ( $S_i$ ) of a user;*
- analyzing the speech signal to recognize speech information contained in the speech signal ( $S_i$ );*
- determining a reception quality value ( $S_Q$ ) or a noise value which represents a current reception quality; and*

*switching the speech recognition system over to a mode of operation, which is less sensitive to noise when the noise value exceeds a noise threshold, or outputting an alert signal ( $S_H$ ) to the user when the reception quality value ( $S_Q$ ) drops below a given reception quality threshold, or both.*

In rejecting claim 1, the Office Action directs Applicants to the various thresholds in 230, 240, 250 and 260 for the reception quality threshold. While there are thresholds disclosed, none are reception quality thresholds or a noise threshold as claimed. Rather there are start energy thresholds and end energy thresholds, which relate to energy in frames. As such, the applied art fails to disclose at least one feature of claim 1. As a result, a *prima facie* case of anticipation has not been established. Therefore, claim 1 and the claims that depend therefrom are patentable over the applied art.

**Rejections under 35 U.S.C. § 103**

Claims 2-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable in view of *Politakis, et al.* and other secondary and tertiary references.

While Applicants in now way concede the propriety of these rejections, because claims 2-8 depend from claim 1, these claims are patentable over the applied art for at least the same reasons and in view of their additionally recited subject matter.

Claim 9 is drawn to a speech recognition system and features:

*means for detecting a speech signal ( $S_i$ ) of a user;*

*a speech recognition device adapted to analyze the detected speech signal ( $S_i$ ) to recognize speech information contained in the speech signal;*

*a quality control device adapted to determine a reception quality value ( $S_Q$ ) or a noise value, representing a current reception quality,*

*a comparator adapted to compare the reception quality value ( $S_Q$ ) with a predetermined reception quality threshold or for comparing the noise value with a given noise threshold,*

*and control means adapted to switch the speech recognition system over to a mode of operation which is less sensitive to noise, or an alert signal ( $S_H$ ) is output to the*

*user when the reception quality value drops below the reception quality threshold or when the noise value exceeds the noise threshold, or both.*

Like the rejection of claim 1, the Office Action turns the various thresholds in 230, 240, 250 and 260 of *Polidakis, et al.* for the reception quality threshold. While there are thresholds disclosed, none are reception quality thresholds or a noise threshold as claimed. Rather there are start energy thresholds and end energy thresholds, which relate to energy in frames. As such, the applied art fails to disclose at least one feature of claim 9. As a result, a *prima facie* case of obviousness has not been established. Therefore, claim 9 and the claims that depend therefrom are patentable over the applied art.

### **Conclusion**

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:  
Phillips Electronics North America Corp.

/s/William S. Francos/

by: William S. Francos (Reg. No. 38,456)

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